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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN FRANCISCO

11 MATEEL ENVIRONMENTAL JUSTICE
12 FOUNDATION,

13 Plaintiff,

14 v.

15 SENCO PRODUCTS, INC., et al.

16 Defendant.

Case No. CGC-04-436587

~~[PROPOSED]~~ CONSENT JUDGMENT
(MIDWEST AIR TECHNOLOGIES,
INC.)

ENDORSED
FILED
San Francisco County Superior Court

FEB 17 2006

GORDON PARK-LI, Clerk
BY: ERICKA LARNAUTI
Deputy Clerk

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~~[PROPOSED]~~ CONSENT JUDGMENT

1 **1. INTRODUCTION**

2 1.1 On or about June 4, 2004, the Mateel Environmental Justice Foundation ("MEJF")
3 and its attorneys, Klamath Environmental Law Center ("KELC") sent a 60 Day Notice Letter to the
4 Office of the California Attorney General of the State of California ("California Attorney General"),
5 all California counties' District Attorneys and all City Attorneys of California cities with populations
6 exceeding 750,000, (collectively, "Public Enforcers"), charging certain businesses with violating the
7 Safe Drinking Water and Toxic Enforcement Act of 1986, California Health and Safety Code
8 Section 25249.5 et seq. ("Proposition 65"), in their manufacture, distribution and/or sale of wires and
9 cables coated with polyvinyl chloride ("PVC"). Specifically, MEJF charged that persons handling
10 the PVC-coated wires and cables were exposed to certain chemicals, listed under Proposition 65,
11 including cadmium, hexavalent compounds of chromium, vinyl chloride, lead and lead compounds,
12 lead acetate, lead phosphate, lead subacetate and di(2ethylhexyl) phthalate.

13 1.2 On or about November 23, 2004, MEJF ("Plaintiff"), acting on behalf of itself, the
14 public interest, and the general public for the matters described in the Notice Letter, filed a Complaint
15 for civil penalties and injunctive relief ("Complaint") in the San Francisco Superior Court, fashioned,
16 *MATEEL ENVIRONMENTAL JUSTICE FOUNDATION v. SENCO PRODUCTS, INC., et al.*, Case
17 No. CGC-04-436587, based on the Notice Letter. The Complaint alleged, among other things, that
18 MIDWEST AIR TECHNOLOGIES, INC. ("Settling Defendant") violated Proposition 65 by
19 manufacturing, marketing and/or distributing to California residents products that are themselves or
20 which incorporate wires and cables that are PVC-coated and failing to provide clear and reasonable
21 warnings to California residents who handle and use such products that the handling and use of those
22 products in their normally intended manner will cause those persons to be exposed to Proposition 65
23 Chemicals.

24 1.3 Plaintiff and Settling Defendant are, for purposes of this Consent Judgment,
25 collectively referred to as the "Parties," with each of them a "Party".

26 1.4 For purposes of this Consent Judgment, the term "Covered Products" means products
27 that are themselves, or that incorporate, utilize, or have appended to them, Cords, and that are
28 manufactured, distributed, marketed or sold by the Settling Defendant. The term Covered Products



includes both such products that are subject to the Warning Requirements of Section 7, and those that are not, including those products that are exempted from the warning requirements of this Consent Judgment pursuant to Sections 7.1 or 7.3. The term "Covered Products" also includes products which are manufactured, distributed, marketed and/or sold by the Settling Defendant either under its own name or brand or under the name or brand of another (e.g., privately labeled products).

1.5 For purposes of this Consent Judgment only, the Settling Defendant admits that: (a) it is a business that employs more than ten persons and manufactures, distributes and/or sells Covered Products into the State of California; (b) the Covered Products contain one or more Proposition 65 Chemicals; and (c) Proposition 65 Chemicals are chemicals listed under Proposition 65 as being known to the State of California to cause cancer and/or reproductive toxicity.

1.6 For purposes of this Consent Judgment only, the Parties stipulate that this Court has jurisdiction over the allegations of violations contained in the Complaints and personal jurisdiction over the Settling Defendant as to the acts alleged in the Complaints, that venue is proper in the County of San Francisco and that this Court has jurisdiction to enter this Consent Judgment as a full settlement and resolution of the allegations contained in the Complaints and Notice Letters and of all claims which were or could have been raised by any person or entity based in whole or in part, directly or indirectly, on the facts alleged therein, arising therefrom or related thereto.

1.7 The Parties enter into this Consent Judgment pursuant to a full and final settlement of any and all claims between the Parties for the purpose of avoiding prolonged litigation. This Consent Judgment shall not constitute an admission with respect to any material allegation of the Complaints, each and every allegation of which the Settling Defendant denies; nor may this Consent Judgment or compliance with it be used as evidence of any wrongdoing, misconduct, culpability or liability on the part of any Settling Defendant. The Settling Defendant maintains that its Covered Products have at all times complied with all applicable laws, including Proposition 65.

2. SETTLEMENT PAYMENT

2.1 In settlement of all of the claims referred to in this Consent Judgment against the Settling Defendant:

(a) The Settling Defendant shall pay, within thirty (30) days of entry of this Consent Judgment, \$30,000 (thirty thousand dollars). The payments required by the preceding sentence may be made payable to KELC and shall subsequently and within a commercially reasonable time be divided by KELC as follows: (i) fifty percent (50%) shall be paid to KELC for attorneys fees and costs incurred by KELC on behalf of Plaintiff in investigating this matter and negotiating this Consent Judgment on behalf of itself and the general public, (ii) fifty percent (50%) shall, subject to Paragraph 2.2 below, be distributed by KELC at the direction of MEJF among the following non-profit organizations: Californians for Alternatives to Toxics; the Center for Ethics and Toxics, a project of the Tides Foundation; the Center on Race, Poverty and the Environment; the Ecological Rights Foundation; the Environmental Protection Information Center; the Golden Gate University School of Law Environmental Litigation Clinic; KPFA Radio; and Pacifica Reporters Against Censorship.

2.2 MEJF and KELC represent and warrant that each of the organizations identified in Paragraph 2.1(a)(ii) above is a tax exempt, section 501(c)(3) non-profit organization and that funds distributed to these organizations pursuant to this Consent Judgment may only be spent to reduce harm from toxic chemicals, or to increase consumer, worker and community awareness of health hazards posed by lead and other toxic chemicals.

2.3 Except as specifically provided in this Consent Judgment, each side shall bear its own costs and attorney's fees.

3. ENTRY OF CONSENT JUDGMENT

The Parties request that the Court promptly enter this Consent Judgment and waive their respective rights to a hearing or trial on the allegations of the Complaint.

4. MATTERS COVERED BY THIS CONSENT JUDGMENT

4.1 For purposes of Section 4 of this Consent Judgment, the term Settling Defendant shall include the Settling Defendant, as defined above, and its past, present and future parents, divisions, subdivisions, brands, subsidiaries and affiliates and the predecessors, successors and assigns of any of them, as well as their past, present and future officers, directors, employees, agents, attorneys, representatives, shareholders and assigns. For purposes of Section 4, the term Settling Defendant

shall also be deemed to include the Settling Defendant's supplier of Covered Products, but only with respect to those Covered Products that such supplier manufactures for the Settling Defendant. The preceding sentence shall not apply with respect to a supplier who ships Covered Products directly to a consumer at the request of the Settling Defendant, where a warning is provided to address the obligations of this Consent Judgment solely pursuant to Section 7.5(e) below. A list delineating some, but not necessarily all, of the names of the various business entities and brands or product types referred to in this Paragraph and in existence on or before the date of this Consent Judgment is attached hereto as Exhibit C.

4.2 As to Covered Products, this Consent Judgment is a final and binding resolution between Plaintiff acting on behalf of itself and, (as to those matters referenced in the Notice Letters) in the public interest pursuant to Health and Safety Code Section 25249.7(d) and the Settling Defendant of: (a) any violation of Proposition 65; or, (b) with respect to exposures to the Proposition 65 Chemicals associated with the use of Covered Products, any other statutory or common law claim, to the fullest extent that any such claims were or could have been asserted by any person or entity against the Settling Defendant based on its or their exposure of persons to chemicals contained in or otherwise associated with the use of Covered Products manufactured, sold or distributed by, for or on behalf of the Settling Defendant and/or their alleged failure to provide a clear and reasonable warning of such exposure to such individuals; or (c) as to exposures to chemicals contained in or otherwise associated with the use of Covered Products, any other claim based in whole or part on the facts alleged in the Complaints or Notice Letters, whether based on actions or omissions committed by the Settling Defendant or any other entity within the Settling Defendant's chain of distribution, including, but not limited to, customers, wholesale or retail sellers or distributors and any other person in the course of doing business ("Downstream Entity").

4.3 As to any claims, violations (except violations of this Consent Judgment), actions, damages, costs, penalties, or causes of action which may arise or have arisen after the original date of entry of this Consent Judgment, compliance by the Settling Defendant with the terms of this Consent Judgment shall be deemed to constitute its full and complete compliance with Proposition 65 with respect to the provision of warnings for chemicals contained in or otherwise associated with the use

1 of Covered Products, provided that the concentrations of those chemicals other than lead are
2 materially similar to that associated with the Covered Products with respect to Proposition 65 at the
3 time this Consent Judgment is entered.

4 4.4 Notwithstanding Sections 4.2 or 4.3 above, as to all customers, distributors,
5 wholesalers, retailers or any other Downstream Entity, except as otherwise indicated in Sections 4.5
6 and 4.6 below, which may in the course of doing business use, maintain, distribute, or sell Covered
7 Products which are manufactured, distributed or sold by the Settling Defendant (including Covered
8 Products which are privately labeled by the Settling Defendant for a Downstream Entity), Plaintiff
9 (acting on behalf of itself and, as to those matters raised in the Notice Letters, on behalf of the general
10 public) waives all rights to institute any form of legal action whether under Proposition 65 or
11 otherwise, arising out of or resulting from or related directly or indirectly to, in whole or in part,
12 exposure to, or otherwise associated with the use of and alleged failure to warn with respect to
13 Proposition 65 Chemicals contained in Covered Products.

14 4.5 Nothing in this Consent Judgment shall be deemed to release, from past liability
15 under Proposition 65 or any other statute or regulation (except from liability for occupational
16 exposures under the circumstances set forth in Sections 4.6, 7.5 and 7.6 of this Consent Judgment),
17 any entity which incorporates Cords obtained from the Settling Defendant into a Covered Product the
18 entity manufactures or distributes for sale to retail consumers, unless such entity is itself a Settling
19 Defendant; nor shall any such entity which is not itself a Settling Defendant be entitled to utilize or
20 otherwise rely on the provisions of this Consent Judgment. Notwithstanding the preceding sentence,
21 however, compliance with the terms of Section 7 of this Consent Judgment by an entity that
22 incorporates Cords obtained from the Settling Defendant into a Covered Product it manufactures or
23 distributes for sale to retail consumers, shall be deemed to constitute compliance with Proposition 65
24 with respect to Covered Products it sells in the future.

25 4.6 Nothing in this Consent Judgment shall be deemed to require an out of state
26 manufacturer of Covered Products to provide a Proposition 65 warning for occupational exposures
27 occurring within the State of California. Nothing in this Consent Judgment will be deemed to release
28 a California employer from liability for failure to comply with its obligations, if any, to provide

warnings under Proposition 65 for the exposures of its employees to chemicals contained in or otherwise associated with Non-Retail Covered Products (as defined in Section 7.6 below) unless such employer makes Proposition 65 warning information available to its employees in the manner specified in Section 7.6 below or as otherwise permitted by 8 Cal. Code Regs. § 5194.

4.7 In furtherance of the foregoing, Plaintiff hereby waives any and all rights and benefits which it now has, or in the future may have, conferred upon it by virtue of the provisions of Section 1542 of the California Civil Code, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

Plaintiff understands and acknowledges that the significance and consequence of its waiver of California Civil Code Section 1542 is that even if Plaintiff and/or, with respect to the matters raised in the Notice Letters, any person or entity on whose behalf they purport to act or could act, suffers future damages or harm arising out of, resulting from, or related directly or indirectly to, in whole or in part, the matters covered in Sections 4.2, 4.3 and 4.4 above ("Damages"), Plaintiff and any person or entity on whose behalf they purport to act or could act, will not be able to make any claim for such Damages against the Settling Defendant or any of its customers, distributors, wholesalers, retailers, or any other person in the course of doing business who may use, maintain, distribute or sell the Covered Products. Furthermore, Plaintiff acknowledges that it intends these consequences for any such Damages which may exist as of the date of this release but which Plaintiff does not know exist, and which, if known, would materially affect its decision to enter into this Consent Judgment, regardless of whether its lack of knowledge is the result of ignorance, oversight, error, negligence, or any other cause, no matter how justifiable such cause may be.

4.8 The Settling Defendant waives all rights to institute any form of legal action against Plaintiff, its officers, directors, attorneys, consultants and representatives for all legal actions undertaken or statements made in the course of such legal actions to seek enforcement of this action and judgment.

1 5. **ENFORCEMENT OF JUDGMENT**

2 5.1 The terms of this Consent Judgment shall be enforced exclusively by the Parties
3 hereto by means of noticed motion or order to show cause before the Superior Court of San Francisco
4 County.

5 6. **MODIFICATION OF JUDGMENT**

6 6.1 This Consent Judgment may be modified only upon written agreement of the Parties
7 and upon entry of a modified amended Consent Judgment by the Court, or upon motion of any Party
8 as provided by law and upon entry of a modified amended Consent Judgment by the Court.
9 Notwithstanding the immediately preceding sentence or any other term or provision of this Consent
10 Judgment, if Plaintiff or any affiliated entity, or the California Attorney General, enters into, or
11 agrees to in writing, or is otherwise bound by injunctive relief terms or provisions relating to the
12 provision of Proposition 65 warnings for Covered Products, with regard to their Cords, which, taken
13 together, are more favorable to the defendant(s) than the terms or provisions that this Consent
14 Judgment provide for a Covered Product of like kind and characteristics with respect to its
15 thermoset/thermoplastic-coated electrical cord and use, the terms of injunctive relief provided for in
16 Section 7 of this Consent Judgment shall automatically be deemed to have been modified to add such
17 more favorable terms or provisions as an option which the Settling Defendant may elect for
18 compliance with this Consent Judgment.

19 7. **INJUNCTIVE RELIEF**

20 7.1 Covered Products shall be deemed to comply with Proposition 65 and be exempt
21 from any Proposition 65 warning requirements if the Cords that are sold as a part of or in association
22 with those Covered Products meet the following criteria: (a) the surface contact layer of the Cords
23 shall have no lead as an intentionally added constituent; and (b) the surface contact layer of the Cords
24 shall have lead content by weight of no more than 0.03% (300 parts per million, or "300 ppm"). The
25 Settling Defendant may comply with the above requirements by relying on information obtained from
26 its suppliers regarding the content of the surface contact layer of the Cords, provided such reliance is
27 in good faith. Obtaining test results showing that the lead content is no more than 0.03%, using a
28 method of sufficient sensitivity to establish a limit of quantification (as distinguished from detection)

1 of less than 300 ppm shall be deemed to establish good faith reliance. Provided that the level of
2 quantitation requirement set forth in the preceding sentence is met, the test protocol and methods
3 described on Exhibit D hereto may be relied on. Nothing in the preceding two sentences shall
4 preclude a Settling Defendant from establishing good faith reliance by an alternative means. Three
5 samples of Cords provided to Mateel's counsel have been analyzed by the test protocols set forth in
6 Exhibit D and meet the lead content lead content provisions of this paragraph.

7 7.2 Covered Products manufactured and shipped for distribution to or sale in California
8 on or after the Effective Date that do not meet the warning exemption standard set forth in
9 Section 7.1 of this Consent Judgment and are not exempt pursuant to Section 7.3 shall be
10 accompanied by a warning as described in Section 7.4 below. For purposes of this Section, 90 days
11 after the entry of this Consent Judgment shall be considered the "Effective Date."

12 7.3 The following Covered Products are deemed to be exempt from any Proposition 65
13 warning requirements with respect to Cords: (a) Covered Products which because of their size,
14 weight or function have Cords that are handled only infrequently (such as upon their installation in a
15 setting where they are not typically plugged and unplugged) ("Infrequently Handled Products");
16 (b) those Covered Products that: (i) are sold at retail before the Effective Date; or (ii) are distributed
17 or shipped for sale outside the State of California; (c) Covered Products that use Cords only as
18 internal components not normally accessible to the consumer during ordinary use; and/or (d) Covered
19 Products which contain the Proposition 65 Chemical only as part of the inner conductor or other
20 component not normally accessible to the consumer during ordinary use. Exhibit E contains a list of
21 Covered Products/Product types that are deemed to meet the criteria for Infrequently Handled
22 Products set forth in this Section 7.3 and are therefore exempt. Plaintiffs have previously provided
23 the California Attorney General's Office and the Settling Defendant with a list of Covered
24 Products/Product types that are deemed not to meet the criteria for Infrequently Handled Products set
25 forth in this Section 7.3 and therefore are not exempt ("Non-Exempt Products List"). Exhibit E and
26 the Non-Exempt Products List may be used as guidance in determining whether other Covered
27 Products meet these criteria; Exhibit E and the Non-Exempt Products List may also be used by the
28 Parties in the course of dispute resolution pursuant to Section 9. The Parties acknowledge that

* Amended per stipulation of parties.
(PROPOSED) CONSENT JUDGMENT

1 common usage of the terms "portable" and "non-portable" do not affect the classification of any
2 Covered Products under this Consent Judgment. Covered Products may be considered Infrequently
3 Handled Products regardless of their weight or the likelihood that they may be used while moving,
4 whether that be on a person, in a car, on an airplane or otherwise.

5 7.4 Should the Settling Defendant's Covered Products require Proposition 65 warnings
6 under Section 7.2, the Settling Defendant shall, except as otherwise provided in Section 7.5 below,
7 either provide one of the warnings described below or any other Proposition 65 warning that has been
8 reviewed and approved in writing by the California Attorney General for use with Covered Products
9 regarding their thermoset/thermoplastic-coated wires and/or cables:

10 "WARNING: This product contains chemicals, including lead, known to the State of
11 California to cause [cancer, and] birth defects or other reproductive harm. *Wash*
12 *hands after handling.*"

13 or

14 "WARNING: Handling the cord on this product will expose you to lead, a chemical
15 known to the State of California to cause [cancer, and] birth defects or other
16 reproductive harm. *Wash hands after handling.*"

17 or

18 "WARNING: The power cord on this product contains lead, a chemical known to the
19 State of California to cause [cancer, and] birth defects or other reproductive harm.
20 *Wash hands after handling.*"

21 The word "WARNING" shall be in all capital letters and in bold typeface. The hand-washing
22 admonition shall be in bold typeface and italicized. Inclusion of the bracketed words "cancer, and" in
23 the above warning shall be at the Settling Defendant's option.

24 7.5 Unless otherwise indicated herein, the warning required or authorized in Sections 7.4
25 shall be given by having it: (a) affixed to the Covered Product itself or to the unit package of such
26 Covered Product; (b) printed on the Covered Product itself or on the unit package of such Covered
27 Product; (c) displayed on an internet site for those units of Covered Products sold on the internet;
28

1 (d) included in the owner's manual if the conditions set forth in Section 7.9 below are satisfied
2 ("Owner's Manual Warning"); or, (e) printed on the invoice issued directly to the consumer by the
3 Settling Defendant to confirm the sale, where the Settling Defendant sells Covered Products directly
4 to consumers by telephone, mail order, or internet sale, but never has physical possession of the
5 Covered Product or its packaging.

6 7.6 If the warning is printed on the product, package label, or invoice, then the warning
7 shall be contained in the same section of the label that contains other safety warnings, if any,
8 concerning the use of the Covered Product or near its displayed price and/or UPC code. Such
9 warning shall be prominently affixed to or printed on each such Covered Product, its label or package
10 or invoice, and displayed with such conspicuousness, as compared with other words, statements,
11 designs, or devices on such Covered Product, its label, package or display or invoice as to render it
12 likely to be read and understood by an ordinary individual under customary conditions of purchase or
13 use. With respect to the preceding sentence, the type size of any warning required by paragraph 7.4
14 must be legible, but otherwise need not be larger than any other warning language used in
15 conjunction with the Covered Product in question and its relative size may take into account the
16 nature, immediacy, and acuteness of the risks for which other warnings are given. If the size of a
17 Covered Product and its packaging is such that a warning required by this Consent Judgment cannot
18 physically be printed on its non-transparent portion in a legible size, the warning may be printed on a
19 separate piece of paper or cardstock and inserted into the Covered Product's packaging, provided that
20 i) the cardstock or paper containing the warning is not white or uncolored and contains only the
21 warning language, and ii) a substantial portion of the exterior of the packaging material is
22 transparent.

1 7.7 If a warning is provided on the internet pursuant to (c) above, the warning message
2 shall be displayed (or, upon the internet site user's identification as a California resident, such as
3 when the user types in a zip code, automatically appear) either: (a) on the same page on which the
4 Covered Product is displayed, (b) on the same page as the order form for the Covered Product, or (c)
5 on the same page as the price for the Covered Product.

6 7.8 If the warning is given in the owners manual pursuant to Section 7.9 below, it shall be
7 located in one of the following places in the manual: the outside of the front cover; the inside of the
8 front cover; the first page other than the cover; or the outside of the back cover. The warning shall be
9 printed or stamped in the manual or contained in a durable label or sticker affixed to the manual in a
10 font no smaller than the font used for other safety warnings in the manual. Alternatively, the warning
11 may be included in a safety warning section of the owner's manual consistent with specifications
12 issued by Underwriters Laboratories.

13 7.9 A warning in the owner's manual of a Covered Product may be used to satisfy the
14 warning requirements of this Section 7 only under the following circumstances: the Covered Product
15 (i) may cause serious injury or bodily harm (other than by means of fire or electrocution) unless used
16 as directed; or (ii) is sophisticated, difficult to understand or install, set-up, or assemble; or (iii) has
17 one or more features a consumer must read about in order to know how to program or use the
18 Covered Product. However, a Covered Product may not utilize an owner's manual warning if it
19 meets the following criteria: (a) the Covered Product is unlikely to cause serious injury or bodily
20 harm other than by means of fire or electrocution; (b) the Covered Product is easily assembled or
21 programmed by an ordinary consumer without need to reference instructions; and (c) fundamental
22 operation of the Covered Product is easily understood and commonly performed by an ordinary
23 consumer without training or need to reference operating instructions. Exhibit F contains a list of
24 Covered Products/product types for which Owner's Manual Warnings are deemed to be an allowable
25 method of communicating the warnings required by this Section 7. Plaintiffs have previously
26 provided the California Attorney General's Office and the Settling Defendant with a list of Covered
27 Products/product types for which Owner's Manual Warnings are deemed not to be an allowable
28 method of communicating the warnings required by this Section 7 (the "Non-Owner's Manual

Product List"). Exhibit F and the Non-Owner's Manual Product List may be used as guidance in determining whether the criteria for use of owner's manual warnings set forth in this Section are satisfied. Exhibit F and the Non-Owner's Manual Products List may also be used by the Parties in the course of dispute resolution pursuant to Section 9.

7.10 The Settling Defendant may provide an Owner's Manual Warning on any Covered Products/product types, except for those listed on the Non-Owner's Manual Product List, that satisfy the criteria in Section 7.9, whether or not that Covered Product or product type is listed on Exhibit F. Settling Defendant shall provide to Plaintiff, by certified mail or other confirmable delivery, a list of those Covered Products for which an owners manual warning is proposed to be given. Plaintiff shall, within 60 days, notify Settling Defendant as to whether Plaintiff agrees that an owner's manual warning is appropriate. In the event that Plaintiff determines that an Owner's Manual Warning is not appropriate, it shall provide a written explanation of the basis therefore. In the event that the Settling Defendant disagrees with Plaintiff's determination the settling defendant may elect to invoke the Dispute Resolution process provided for in Section 9 hereof. Products not existing as of the Effective Date that are introduced for sale after January 1, 2006 may use a owner's manual warning if approved in writing by the California Attorney General's office, following 60 days prior notice to Plaintiff.

7.11 The requirement for product labeling, set forth herein, is imposed pursuant to the terms of this Consent Judgment. The Parties recognize that product labeling is not the exclusive method of providing a warning under Proposition 65 and its implementing regulations.

8. ADDED INFREQUENTLY HANDLED PRODUCTS

8.1 Exhibit E contains a list of Infrequently Handled Products that are deemed to meet the criteria of Section 7.3(a) and, therefore, deemed to be exempt from Proposition 65 warning requirements. The Products appearing on Exhibit E and the Non-Exempt Products List may be used as guidance to interpret the criteria of Section 7.3(a). A Covered Product not appearing on the Non-Exempt Products List, is exempt if it meets the criteria of Section 7.3(a) whether or not it appears on Exhibit E.

1 8.2 At Least 60 days prior to retail sale, Settling Defendant shall provide to Plaintiff by
2 certified mail or other confirmable delivery, a list of those Covered Products which do not exist as of
3 the Effective Date for which Settling Defendant contends are infrequently handled products for which
4 no warning is required. Plaintiff shall, within 60 days, notify Settling Defendant as to whether
5 Plaintiff agrees that that the Covered Product is infrequently handled and does not require a warning.
6 In the event that Plaintiff determines that a warning is required it shall provide a written explanation
7 of the basis therefore. In the event that the Settling Defendant disagrees with Plaintiff's
8 determination the settling defendant may elect to invoke the Dispute Resolution process provided for
9 in Section 9 hereof. Products not existing as of the Effective Date that are introduced for sale after
10 January 1, 2006 may be sold without a warning because they are infrequently handled if so approved
11 in writing by the California Attorney General's office, following 60 days prior notice to Plaintiff.

12
13 9. DISPUTE RESOLUTION

14 9.1 Wherever this Consent Judgment provides that the Settling Defendant may invoke
15 the Dispute Resolution process or file a motion to have the Court resolve an issue, the Settling
16 Defendant seeking a resolution shall first mail (by certified mail) and fax a notice to Plaintiff, setting
17 forth the dispute and the basis for the Party's position. The Parties interested in the dispute shall then
18 meet and confer in good faith within sixty (60) days to determine whether the dispute may be
19 resolved in order to avoid further litigation of the issue, unless both Parties waive, in writing, notice
20 and the opportunity to meet and confer. In the event that Plaintiff fails to meet and confer within the
21 sixty (60) day period, the Settling Defendant's position shall be deemed to have prevailed. In the
22 event that, after meeting and conferring, Plaintiff disapproves or disagrees with a position taken by
23 the Settling Defendant, Plaintiff shall notify the Settling Defendant in writing, sent by an overnight
24 delivery service requiring a signature upon delivery, within 14 (fourteen) days of meeting and
25 conferring. Should the Plaintiff do so and should the Settling Defendant wish to pursue its position,
26 the Settling Defendant shall then seek to have the California Attorney General concur with the
27 Settling Defendant's position. If the California Attorney General concurs in writing with the Settling
28 Defendant, the Settling Defendant shall provide notice thereof to Plaintiff and the Settling

1 Defendant's view shall prevail. If, however, the California Attorney General does not concur with
2 the Settling Defendant within ninety (90) days of the date on which the Settling Defendant sought the
3 California Attorney General's concurrence, the Settling Defendant shall have the right to bring the
4 issue to the Court by noticed motion for its de novo review and, provided that it is proceeding in good
5 faith, shall not be subject to further penalties during the pendency of such motion and/or if the motion
6 is not contested by Plaintiff. In the event that the Plaintiff chooses to contest such a motion and
7 prevails, 1) the Settling Defendant shall be deemed to be in compliance with the terms of this
8 Consent Judgment provided that it implements the warning requirements imposed as the result of the
9 Court's determination within ninety (90) days that the Court's determination is final; and 2) Plaintiff
10 may elect to seek to recover its attorney fees incurred in association with such motion as provided for
11 by California Civil Procedure Code Section 1021.5.

12 10. TERMINATION

13 The Settling Defendant may elect (but is not required) to terminate its participation in this
14 Consent Judgment beginning on January 31, 2006 or any date thereafter by means of filing with the
15 court and serving on the Plaintiff, the California Attorney General, and counsel of record to the
16 Settling Defendant with a notice of termination. In the event of the exercise of such an election, the
17 Settling Defendant's obligations and rights and benefits hereunder shall immediately be deemed to
18 cease to exist.

19 11. APPLICATION OF JUDGMENT

20 The obligations of this Consent Judgment shall apply to and be binding upon all plaintiffs,
21 acting in the public interest pursuant to Health and Safety Code section 25249.7(d), and the Settling
22 Defendant and the successors or assigns of any of them.

23 12. AUTHORITY TO STIPULATE

24 Each signatory to this Consent Judgment certifies that he or she is fully authorized by the
25 Party he or she represents to enter into this Consent Judgment and to execute it on behalf of the Party
26 represented and legally to bind that Party.

1 13. NOTICES

2 Whenever a notice is called for by this Consent Judgment, it shall be provided to the Settling
3 Defendant at the addresses identified in Exhibit B hereto. If any Party desires to change the
4 individual and/or address designated to receive notice on its behalf, such Party shall provide notice to
5 all other Parties pursuant to the terms of this Section.

6 14. RETENTION OF JURISDICTION

7 This Court shall retain jurisdiction of this matter to implement this Consent Judgment.

8 15. ENTIRE AGREEMENT

9 This Consent Judgment contains the sole and entire agreement and understanding of the
10 Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations,
11 commitments and understandings related hereto. No representations, oral or otherwise, express or
12 implied, other than those contained herein have been made by any Party hereto. No other agreements
13 not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the
14 Parties.

15 16. GOVERNING LAW

16 The validity, construction and performance of this Consent Judgment shall be governed by the
17 laws of the State of California, without reference to any conflicts of law provisions of California law.
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17. COURT APPROVAL

If this Consent Judgment is not approved and entered by the Court, or if the entry of this Consent Judgment is successfully challenged, this Consent Judgment shall be of no force or effect, and cannot be used in any proceeding for any purpose.

IT IS SO STIPULATED:

DATED: 10/30/05

MATEEL ENVIRONMENTAL JUSTICE
FOUNDATION

By: William Verick
William Verick

DATED: 10/26/05

MIDWEST AIR TECHNOLOGIES, INC.

By: James L. Warren
Chief operating officer

IT IS SO ORDERED.

DATED: FEB 17 2006

JAMES L. WARREN

JUDGE, SUPERIOR COURT OF CALIFORNIA

EXHIBIT A
(Copy Of 60-Day Notice Letter)

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~~[PROPOSED]~~ CONSENT JUDGMENT



June 4, 2004

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY GENERAL
P.O. BOX 70550
OAKLAND CA 94612-0550

Greetings:

This office and the Mateel Environmental Justice Foundation ("Mateel") give you notice that the private business listed on the attached service list, has been, is, will be, and threatens to be in violation of Cal. Health & Safety Code § 25249.6. Both this office and Mateel are private enforcers of Proposition 65, both may be contacted at the below listed address and telephone number, and I am a responsible individual for both Mateel and this office. The above referenced violations occur when California residents come into contact with hand tools, the handles of which are coated with thermoplastic. Examples of these tools are listed on the attached Appendix A. The plastic on the handles of these tools contains high levels of lead and lead compounds ("lead"), chemicals known to cause cancer, birth defects, and other reproductive harm. These private businesses either make or market the hand tools described herein. People are exposed to lead at work or elsewhere when they use these tools and their skin thus comes into contact with the plastic in the handles. Lead is transferred from the tools to the hands of the people using these products. The lead then enters their bodies when it is absorbed directly through the skin, through mucous membranes, or through cuts and/or abrasions, or when they touch their hands to their mouths and other mucous membranes, or when they touch cigarettes or food and then smoke the cigarettes or ingest the food. These exposures thus occur via the dermal absorption, subcutaneous, inhalation and ingestion routes. These private businesses did not and do not provide people with clear and reasonable warnings before they expose them to lead. The above referenced violations have occurred every day since at least June 4, 2000 and will continue every day until the lead is taken out of these products or until warnings are given. These violations are alleged for occupational exposures as well as for consumer and environmental exposures. We do not, however, allege occupational exposure violations as to any manufacturer of these products for products made outside of California, except as to workplaces the manufacturer itself maintains in California. Exposures constituting Proposition 65 environmental exposure violations occur both on and off the property of these businesses and in each of California's 58 counties.

Appendix A

COMPANY NAME	Product
BENCOLE INTERNATIONAL	Inland Performance Tools Stock No. 05213 25 piece kit w/ case
DARICE	Darice Wire Coiling Kit #3958-86
LKG INDUSTRIES INC	Philmore 5" Long Nose Pliers #63-5405 Philmore 8" Adjustable Wrench #63-9608 Philmore Groove Joint Pliers #63-5708
WESTRIM CRAFTS	Westrim Crafts Jeweler's Precision Pliers 5 Piece Mini Plier Set #PC30-8E- 101 Westrim Crafts Chain Nose Pliers #PC90-PE- 000 Michael's #1538 Westrim Crafts Long Nose Pliers w/ Side Cutter #PC10-PE-000 H107

SERVICE LIST

EDWARD G. WEIL
DEPUTY ATTORNEY GENERAL
OFFICE OF THE ATTORNEY
GENERAL
P.O. BOX 70550
OAKLAND, CA 94612-0550

OFFICE OF THE CITY ATTORNEY
CITY OF OAKLAND
505 14TH ST 13TH FLOOR
OAKLAND, CA 94612

OFFICE OF THE CITY ATTORNEY
CITY OF SAN FRANCISCO
CITY HALL ROOM 206
400 VAN NESS
SAN FRANCISCO, CA 94102

OFFICE OF THE CITY ATTORNEY
CITY OF SACRAMENTO
980 P Street, 10th Floor
SACRAMENTO, CA 95814

OFFICE OF THE CITY ATTORNEY
CITY OF SAN JOSE
151 W. MISSION ST.
SAN JOSE, CA 95110

OFFICE OF THE CITY ATTORNEY
CITY OF LOS ANGELES
200 N. MAIN ST.
LOS ANGELES, CA 90012

OFFICE OF THE CITY ATTORNEY
CITY OF SAN DIEGO
202 C ST. FLOOR 3
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALAMEDA
225 FALLON ST. #9
OAKLAND, CA 94612

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF ALPINE
P.O. BOX 248
MARKLEEVILLE, CA 96120

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF AMADOR
108 COURT ST. SUITE 202
JACKSON, CA 95642

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF BUTTE
25 COUNTY CENTER DR.
OROVILLE, CA 95965

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CALAVERAS
GOVERNMENT CENTER
391 MOUNTAIN RANCH ROAD
SAN ANDREAS, CA 95249

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF COLUSA
547 MARKET ST.
COLUSA, CA 95932

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF CONTRA COSTA
P.O. BOX 670
MARTINEZ, CA 94533

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF DEL NORTE
450 H ST #171
CRESCENT CITY, CA 95531

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF EL DORADO
515 MAIN ST.
PLACERVILLE, CA 95667

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF FRESNO
2220 TULARE ST #1000
FRESNO, CA 93721

OFFICE OF THE DISTRICT
ATTORNEY COUNTY OF GLENN
P.O. BOX 430
WILLOWS, CA 95988

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF HUMBOLDT
825 5TH ST.
EUREKA, CA 95501

COUNTY OF IMPERIAL
COURTHOUSE, FLOOR 2
939 W. MAIN ST
EL CENTRO, CA 92243

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF INYO
P.O. DRAWER D
INDEPENDENCE, CA 93526

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KERN
1215 TRUXTON AVE. FLOOR 4
BAKERSFIELD, CA 93301

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF KINGS
1400 W. LACEY BLVD.
HANFORD, CA 93230

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LAKE
255 N. FORBES ST. #424
LAKEPORT, CA 95453

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LASSEN
COUNTY ADMINISTRATION
BUILDING
707 NEVADA ST.
SUSANVILLE, CA 96130

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF LOS ANGELES
18000 CRIMINAL COURTS
BUILDING
210 W. TEMPLE ST.
LOS ANGELES, CA 90012

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MADERA
209 W. YOSEMITE AVE.
MADERA, CA 91637

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIN
HALL OF JUSTICE #183
SAN RAFAEL, CA 94903

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MARIPOSA
P.O. BOX 748
MARIPOSA, CA 95338

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MENDOCINO
301 S. STATE ST.
UKIAH, CA 95482

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MERCED
2222 M ST.
MERCED, CA 95340

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MODOC
P.O. BOX 1171
ALTURAS, CA 9610

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MONO
P.O. BOX 617
BRIDGEPORT, CA 93317

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF MONTEREY
240 CHURCH ST.
P.O. BOX 180
SALINAS, CA 93902

COUNTY OF NAPA
931 PARKWAY MALL
P.O. BOX 720
NAPA, CA 94559-0720

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF NEVADA
COURTHOUSE ANNEX
NEVADA CITY, CA 95959

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF ORANGE
700 CIVIC CENTER DR. WEST #A-200
SANTA ANA, CA 92701

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLACER
11562 B AVE
ALBURN, CA 95603-2687

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF PLUMAS
P.O. BOX 10716
QUINCY, CA 95971

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF RIVERSIDE
4073 MAIN ST.
RIVERSIDE, CA 92501

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SACRAMENTO
P.O. BOX 749
SACRAMENTO, CA 95804

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BENITO
419 4TH ST
HOLLISTER, CA 95023

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN BERNARDINO
316 MT. VIEW AVE.
SAN BERNARDINO, CA 92415-0004

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN DIEGO
101 W. BROADWAY #1440
SAN DIEGO, CA 92101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN FRANCISCO
850 BRYANT ST #322
SAN FRANCISCO, CA 94103

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN JOAQUIN
222 E. WEBER AVE #202
STOCKTON, CA 95202

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN LUIS OBISPO
COUNTY GOVERNMENT CENTER #450
SAN LUIS OBISPO, CA 95408

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SAN MATEO
HALL OF JUSTICE AND RECORDS
REDWOOD CITY, CA 94063

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA BARBARA
1103 SANTA BARBARA ST.
SANTA BARBARA, CA 93101

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CLARA
70 W. HEDDING ST.
SAN JOSE, CA 95110

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SANTA CRUZ
701 OCEAN ST. #200
SANTA CRUZ, CA 95060

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SHASTA
1525 COURT ST.
REDDING, CA 96001

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SIERRA
P.O. BOX 457
DOWNEYVILLE, CA 95936

OFFICE OF THE DISTRICT ATTORNEY
COUNTY OF SISKIYOU
P.O. BOX 986
YREKA, CA 96097

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF SOLANO
600 UNION AVE
FAIRFIELD, CA 94533

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF SONOMA
600 ADMINISTRATION DR. #2121
SANTA ROSA, CA 95403

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF STANISLAUS
1100 1 ST. #200
MODESTO, CA 95354

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF SUTTER
1160 CIVIC CENTER BLVD. #A
YUBA CITY, CA 95993

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF TEHAMA
P.O. BOX 519
REDBLUFF, CA 96080

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF TRINITY
P.O. BOX 310
WEAVERVILLE, CA 96093

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF TULARE
COURTHOUSE #224
VISALIA, CA 93291

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF TUOLUMNE
2 S. GREEN ST.
SONOMA, CA 95370

VENTURA COUNTY DISTRICT
ATTORNEY'S OFFICE
c/o GREGORY BROSE D.D.A.
4245 MARKET ST. #205
VENTURA, CA 93003

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF YOLO
204 4TH ST
P.O. BOX 1247
WOODLAND, CA 95695

OFFICE OF THE DISTRICT
ATTORNEY
COUNTY OF YUBA
215 5TH ST.
MARYSVILLE, CA 95901

ROB LITTLE, PRESIDENT
ABAC AMERICAN INC INC
1623 CEDAR LINE DR.
ROCK HILL SC 29730

THOMAS F. SLATER, CEO
ACTRON MANUFACTURING
COMPANY
15825 INDUSTRIAL PKWY
CLEVELAND, OH 44135

ANDRE LIVIAN, PRESIDENT
ALLTRADE, INC.
1431 VIA PLATA
LONG BEACH, CA 90810

MICHAEL J. POTTER, PRESIDENT
BIG LOTS STORES, INC.
300 PHILLIPS RD
COLUMBUS, OH 43228

MAO KUEI LIN, PRESIDENT
BLITZ TECHNOLOGY, INC.
55 PARKER
IRVINE, CA 92618

KEN SEMELSBERGER,
PRESIDENT
CAMPBELL HAUSFELD/SCOTT
FETZER COMPANY
28800 CLEMENS ROAD
WEST LAKE, OH 44145

MIKE CATAN, PRESIDENT
DARICE INC
13000 DARICE PKWY, FAIRBANK
STRONGSVILLE, OH 44149

GUS ALEXANDER, PRESIDENT
FAIR NORTH AMERICA, INC.
1825 GREENLEAF AVE
ELK GROVE VILLAGE, IL 60007

GUS ALEXANDER, PRESIDENT
FAIR NORTH AMERICA, INC.
560 S YERMON ST
PALATINE, IL 60067

SCOTT CAMPBELL, PRESIDENT
GOWALDOM ELECTRONICS INC
1801 MORGAN ST
ROCKFORD, IL 61102

SHIGEHARU MANO, PRESIDENT
HITACHI AMERICA, LTD
50 PROSPECT AVE
TARRYTOWN, NY 10591

AKI NOZAKI, PRESIDENT
HITACHI KOKI U.S.A., LTD.
3950 STEVE REYNOLDS BLVD
NORCROSS, GA 30093

WAYNE TIMPE
LKG INDUSTRIES, INC
3500 PUBLISHERS DR.
ROCKFORD, IL 61109

PRESIDENT OR CEO
MIDWEST AIR TECHNOLOGIES
INC.
625 BARCLAY BLVD
LINCOLNSHIRE, IL 60069

MIKE MC COOBY, PRESIDENT
PLAID ENTERPRISES, INC.
PO BOX 7609
NORCROSS, GA 30091

RICHARD BERMAN, PRESIDENT
R & B INC.
3400 E WALNUT ST.,
BOX 1800
COLMAR, PA 18915

FRED POND, PRESIDENT
RIDGE TOOL CO.
400 CLARK ST.
ELYRIA, OH 44035

PRESIDENT OR CEO
RAM CORPORATION
7677 EQUITABLE DR
EDEN PRADRIE, MN 55344

PRESIDENT OR CEO
S-B POWER TOOL CO.
4300 W. PETERSON AVE.
CHICAGO, IL 60646

DAN CLAUSEY, PRESIDENT
S-B POWER TOOL CO.
1300 WEST CENTRAL ROAD
MT. PROSPECT, IL 60056

R W GERWE, PRESIDENT
SENCO PRODUCTS, INC.
8485 BROADWELL ROAD
CINCINNATI, OH 45244

JOHN M TRANT, PRESIDENT
THE STANLEY WORKS
1000 STANLEY DRIVE
NEW BRITAIN, CT 06053

PRESIDENT OR CEO
VANCO INTERNATIONAL INC
506 KINGSLAND DR.
BATAVIA, IL 60510

DONALD D ORDWAY, PRESIDENT
VIDEO DISPLAY CORPORATION
1868 TUCKER INDUSTRIAL DRIVE
TUCKER, GA 30084

ED CARPENTER, PRESIDENT
VICTOR AUTOMOTIVE PRODUCTS,
INC.
501 S. WOLF RD
DES PLAINES, IL 60016

CERTIFICATE OF MERIT

I, William Verick, hereby declare: This Certificate of Merit accompanies the attached sixty-day notice(s) in which it is alleged the parties identified in the notices have violated Health and Safety Code section 25249.6 by failing to provide clear and reasonable warnings. I am the attorney for the noticing party. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemical that is the subject of the action. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiffs' case can be established and the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code section 25249.7(h)(2), i.e., (1) the identity of the person(s) consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: June 4, 2004

This notice alleges the violation of Proposition 65 with respect to occupational exposures governed by the California State Plan for Occupational Safety and Health. The State Plan incorporates the provisions of Proposition 65, as approved by Federal OSHA on June 6, 1997. This approval specifically placed certain conditions on Proposition 65, including that it does not apply to the conduct of manufacturers occurring outside the State of California. The approval also provides that an employer may use the means of compliances in the general hazard communication requirements to comply with Proposition 65. It also requires that supplemental enforcement is subject to the supervision of the California Occupational Safety and Health Administration. Accordingly, any settlement, civil complaint, or substantive court orders in this matter must be submitted to the Attorney General.

CERTIFICATE OF SERVICE

I, Alison Nichols, declare:

If called, I could and would testify as follows: I am over eighteen. My business address is 424 First Street, Eureka, California, 95501. On June 4, 2004, I caused the attached 60-DAY NOTICE LETTER, or a letter identical in substance, to be served by U.S. Mail on those public enforcement agencies listed on the attached SERVICE LIST; in addition on the same date and by U.S. Mail I caused the attached 60-DAY NOTICE LETTER and PROPOSITION 65: A SUMMARY to be sent by Certified U.S. Mail to the private business entities also listed on the attached SERVICE LIST. I deposited copies of these documents in envelopes, postage pre-paid, with the U.S. Postal Service on the day on which the mail is collected. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on June 4, 2004, at Eureka, California. x

1 EXHIBIT B
2 (Address For Notice Under Consent Judgment)
3
4

5 For Defendant Midwest Air Technologies:
6

7 S. Wayne Rosenbaum, Esq.
8 Foley & Lardner, LLP
9 402 W. Broadway, Suite 2300
10 San Diego, CA 92101

11 For Plaintiff Mateel Environmental Justice Foundation:
12

13 William Verick, Esq.
14 Klamath Environmental Law Center
15 424 First Street
16 Eureka, CA 95501
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EXHIBIT C
(Optional List of Certain Brand Names and Product Type)

EXHIBIT D
(Exemplar of Optional Testing Protocol)

Step 1: Cut 3-inch section of a cable that has not previously been used or wiped.

Step 2: On multiconductor cables, remove the insulated conductors and any other inner components from the 3-inch section of the cable. On single insulated conductors, remove the metallic conductor from the 3-inch section of the cable. Place the outer nonmetallic covering into a lead free receptacle (such as a pre-labeled resealable plastic food storage bag).

Step 3: Repeat steps 1 and 2 above for two additional cables such that a total of three samples are produced for laboratory analysis.

Step 4: Prepare samples for laboratory analysis according to EPA Method 160.4 or 3050. Lab notes MUST indicate that PVC sample was completely dissolved prior to analysis.

Step 5: Analyze samples for total lead by EPA Method 7420 (AA Flame).

Step 6: Compute the arithmetic mean from the three samples.

EXHIBIT E
(Infrequently Handled Products)

1	208- and 220-volt appliances (unless appliance is portable)
2	AC Adapters for foreign outlets and other voltage converters
3	Adjustable beds
4	Air Conditioner
5	Air Purifier
6	Amplifier for home stereo systems (including associated power and interconnector cords, but not including interconnector cords for microphones or musical instruments)
7	Answering machine
8	Audio mixer and associated power cords for in-studio, non-portable mixer units
9	Audio or video cable and adapter cords
10	Audio switcher power cords, unless designed to plug into front of audio/video appliance
11	Audio/video equipment and associated power and patch/pin cords (if A/V equipment is (i) not portable, e.g., no handle or carrying case, (ii) is not designed to plug into front of audio/video appliance, and (iii) is otherwise designed for long term installation)
12	Auto power adapters and cord, unless designed to plug into cigarette lighter or similar in-dash power source
13	Automotive wires and cables (installed)
14	Back cushion massager
15	Bathtub bubble mat
16	Bathtub spas
17	Battery Connection Cords (internal)
18	Battery charger units (except those used for automobiles)
19	Beard Trimmer (cordless models only)
20	Blender (not including hand-held models)
21	Bread Machine
22	Broadcast Equipment, and associated power and interconnector cords (if designed for in-studio or other non-portable installation)
23	Building wire (installed)
24	Calculator
25	Caller ID Unit
26	Can Opener
27	Carafes/Decanters, if cord attaches to separate base unit
28	Carbon Monoxide Detectors
	Cash Registers
	CATV Receiver Power Cords
	CB radio/antenna cords (not handsets)
	CD Player/changer (non-portable units only)
	CD/DVD Home Theater Systems
	Cielo Bath
	Circuit Cable
	Clock
	Coffee Maker
	Color Imaging System Power Cord & Cable (non-portable and not for use with portable computer system)
	Combo Wash/Dryer

1	40	Compactor
2	41	Computer Adapter Cords (not for laptops, and not designed to plug into front of system)
3	42	Computer Cables (in walls)
4	43	Computer CD/DVD Drives (installed, not used with laptops)
5	44	Computer docking system
6	45	Computer Keyboard
7	46	Computer modem line (data and power)
8	47	Computer monitor cable
9	48	Computer Mouse (cordless)
10	49	Computer Peripheral AC Adaptor cord and I/F cable (not including those for portable computers or portable peripheral devices)
11	50	Computer Peripheral PCMCIA Card Cord (not including those for portable computers)
12	51	Computer Peripheral Wires & Cables (not including those for portable computers and those designed to plug into front of desktop computer (e.g., USB cords))
13	52	Computer Scanners (not including those designed for portable computers)
14	53	Computer Servers and External Storage Units
15	54	Computer Speaker Cords (not including those used with portable computers)
16	55	Computer Tape Drives
17	56	Controller/Tuner Power Cord
18	57	Convactor Power Cords
19	58	Cooktop Power Cords (not including those used with small portable hot plates)
20	59	Copier
21	60	Cordless Toothbrush
22	61	Data Logger Cable (unless included with portable device)
23	62	Deep fryer
24	63	Desktop computer power/patch/pin cords (unless designed to plug into front of computer (e.g., USB cords))
25	64	Digital imaging equipment (non-portable and not for use with portable computer system)
26	65	Digital media editor power cords/connecting cables (for installed, non-portable media editor units)
27	66	Digital Sender (digitizes and transmits images), for installed, non-portable units
28	67	Digital Tuner (non-portable units only)
	68	Dishwasher
	69	Drink Mixer (not hand-held)
	70	Dryer
	71	DVD (non-portable units only)
	72	DVD Audio/Video Cable (unless designed to plug into front of system)
	73	DVD Recorder Power/Interconnector Cords (non-portable units only)
	74	Egg Cooker
	75	Electric Bedding
	76	Electric Grill - Indoor or Outdoor
	77	Electric Recliners/Massage Chairs
	78	Electric Sewing Machine (non-portable units only, i.e., those which have no handle or case)
	79	Electric Thermos Pot (if cord attaches to separate base unit)
	80	Electric/Digital Pianos, Organs (non-portable units only)
	81	Electrolysis Water System (corded base unit only)
	82	Electronic Musical instruments, including associated power and adaptor cords (non-portable units only)
	83	Electronic White Board/Print Board Power Cords and Cables

1	84	Espresso & Cappucino Makers
2	85	Facial Spas
3	86	Factory Automation Equipment (industrial systems; not for home use)
4	87	Fan/Heater Products (non-portable models only; i.e., in excess of 10 pounds, as packaged, or having blade diameter 9 inches or greater (rounded to the nearest whole inch) or smaller units which otherwise are regularly installed, or not typically moved from place to place).
5	88	Fax Machines
6	89	Fire Alarm cable
7	90	Fish Roaster
8	91	Flatbread Maker
9	92	Food Processor/Chopper (not including hand-held models)
10	93	Fountain, Decorative
11	94	Freezer
12	95	Garbage Disposals and associated cords (whether sold separately or with product)
13	96	Generators (large systems with only grounding wire)
14	97	Hair Clippers (cordless models only)
15	98	Hair Dryer (only models with retractable cord)
16	99	Hair setter (rollers only, not curling irons)
17	100	Ham and Two-Way Radio and Accessories and Adapters (not handset cords, unless microphone is designed on stand with switch)
18	101	Hard Disk Recorder peripheral and power cords (not including those for portable computers)
19	102	Headphones (cordless models only)
20	103	Headset with Earphone and Microphone (cordless models only)
21	104	Hole punch
22	105	Hot Lather Machine
23	106	Hot Lotion dispenser
24	107	Hot Pot/Kettle/Tea Brewer (if cord attaches to separate base unit)
25	108	Hot Water Dispenser
26	109	Humidifier/Dehumidifier
27	110	Ice Cream Maker
28	111	Ice Maker
	112	Indoor and outdoor phone cable (if designed for permanent installation)
	113	Intercoms (non-hand-held models only)
	114	Inverters/other power supplies (non-automotive uses)
	115	Iron (cordless only)
	116	Juicer/Juice extractor (non-hand-held models only)
	117	LCD Projector (CRT Monitor, receives data from computer) (except for use with portable computer)
	118	Letter opener
	119	Lighting (including tabletop and floor lamps, spotlights, or ceiling lighting, not holiday string lights or clip-on lights)
	120	Magnetic Card Reader/Writer including associated power cord and cable
	121	Meat Grinder (not hand-held models)
	122	Meat Slicer (not hand-held Electric Knives)
	123	Microphone (only including cords powering base unit of cordless microphone system)
	124	Microwave Oven
	125	Mini Speaker System including associated connection cords (not including those for use with laptop computers or other portable devices)
	126	Mixer (non-hand-held models only)

1	127	Mobil telephone battery cables (internal wires and cords only)
2	128	Mobile telephone accessories (only those using corded base charging unit or permanently installed in automobiles)
3	129	Mobile video screens designed for permanent installation (such as for use in automobiles or boats)
4	130	Multi-function office support device (combines functions such as copier, printer, fax machine, PBX, voice mail into one)
5	131	Neon sign & oil burner ignition cable
6	132	NIC/Modem cables
7	133	Optical Cable/Stereo Optical Cords (unless designed to plug into front of system)
8	134	Optical Disc AC Adapter (non-portable and not for use with portable computer systems)
9	135	Optical Disc Power Cords (non-portable and not for use with portable computer systems)
10	136	Ovens
11	137	Over-Range Microwave Ovens/Hoods
12	138	Paper shredder
13	139	Paraffin/wax Bath for Hands
14	140	Patch/pin cords, and cables, adapter cord, coaxial cable, A/V cord, S-VHS cord (when sold with device otherwise excluded)
15	141	Pencil sharpener
16	142	Personal Hygiene System and associated power cord
17	143	Pest Repeller
18	144	Pet Cage Dryers
19	145	Portable Dishwasher
20	146	Portable heater (only if designed for permanent installation)
21	147	Portable Washer
22	148	Postage meters
23	149	Postal scales
24	150	Potpourri heater
25	151	Power bases for charging wireless devices (if designed for long term installation)
26	152	Power tools (corded, cordless, stationary, or portable)
27	153	Power/control/instrumentation tray cable (except for non-permanently-installed public address systems)
28	154	Pressure Cooker
	155	Printer cables
	156	Printer power cord
	157	Projector, non-portable (no handle or carrying case)
	158	Public Address Amplifier and Accessories (non-portable or otherwise designed for permanent or long term installation)
	159	Radiator
	160	Radios with attached cord and without handles (including clock radios)
	161	Range
	162	Range Hoods/Vent
	163	Rechargeable Flashlights
	164	Rechargeable Lanterns
	165	Refrigerator
	166	Rice Cake Maker
	167	Rice Cooker
	168	Riser/Plenum cable (if designed for permanent long term installation)

1	169	Roaster Oven
2	170	Rope Lights (other than holiday string lights) if designed for permanent/long term installation
3	171	Satellite dish
4	172	Scales
5	173	Scanner antenna
6	174	Shavers - Cordless w/Cordless Recharger Base only
7	175	Sink Top Switch for Disposer or Hot Water Dispenser (air activated switch mounted to sink or countertop, designed for permanent/long term installation)
8	176	Smoke detector (internal wires or if designed for permanent/long term installation)
9	177	Speaker wire (designed for use with components designed for long term/permanent installation; speaker wire associated with portable equipment with attached handle or carrying case not excluded)
10	178	Stapler
11	179	Steam cooker
12	180	Stereo and audio power/patch/pin cords (for use with non-portable components and except where designed to plug into front of system)
13	181	Surge protector
14	182	Telecom Data Cable (installed)
15	183	Telecom Power Cable (installed)
16	184	Tele-Homecare System (power cords)
17	185	Telephone power and data cord (phone to wall cords only)
18	186	Television (except small mobile models with attached/built in handle or carrying case)
19	187	Television Antenna
20	188	Television distribution system/swapper
21	189	Television Monitor (including computer monitors except small mobile models with attached/built in handle or carrying case)
22	190	Television peripheral cords (unless designed for use with devices that plug into the front of the set)
23	191	Thermostat Cable
24	192	Toaster
25	193	Toaster Oven
26	194	Towel Warmer
27	195	Transcriber and foot pedal and associated power and interconnecting cords
28	196	Underground Low-Energy Cable (exclusion applies to consumer uses only)
	197	Vanity/lighted makeup mirror
	198	VCR (unless portable with attached handle or carrying case)
	199	Video mixer and switcher (if component of desktop system with no separate mice)
	200	Video printer power cords/connecting cables (unless used with laptop)
	201	Warming drawer
	202	Washer/Dryer
	203	Water distiller
	204	Water filter units designed for permanent/long term installation
	205	Water heater designed for permanent/long term installation
	206	Water jet - Dental
	207	Waxers - hair removal (corded base unit only)
	208	Wine cellars
	209	Diesel Locomotive and Motor Cable

210	Ignition Cable for Gas Tube Signage
211	Hook-Up Wire (intended for permanent or long-term installation)
212	Telephone Switching Station Cable
213	Loop Detector Wire Used in Traffic Counting
214	Utility Cable and Wire (Power and Communications)
215	Signal Cable
216	Power/Control/Instrumentation/Signal CableUtility Cable and Wire (Power and Communications)

EXHIBIT F
(Examples of Products For Which Warnings May Be Given In Owner's Manual)

1	1	Patch/pin cords, and cables, adapter cord, coaxial cable, A/V cord, S-VHS cord (when sold concurrently with equipment that also appears on this list)
2	2	AC adaptor cords (when sold concurrently with equipment that also appears on this list)
3	3	Air Pumps
4	4	Power and patch cords for professional/commercial audio/video equipment used in field (when sold concurrently with the equipment)
5	5	Interconnection or patchcables for portable audio/video/computer components or peripheral devices (when sold concurrently with equipment that also appears on this list)
6	6	Power adapters and cord for use with automotive cigarette lighter or similar power outlet (when sold concurrently with equipment that also appears on this list)
7	7	Power and interconnector cords for broadcast equipment used in field (when sold concurrently with the broadcast equipment)
8	8	Coffee warmer/urn (party-size)
9	9	Adapter and power cords for laptop and desktop computers/peripherals (when sold concurrently with computer or peripheral device)
10	10	Computer Joystick (owner's manual warning authorized only where reference to the owners manual is necessary to program or install software for use; alternatively, warning that otherwise would be placed in owner's manual must appear as part of on-screen programming/installation instructions)
11	11	Computer Mouse (when sold concurrently with equipment that also appears on this list)
12	12	Digital camera cords and cables (when sold concurrently with digital camera)
13	13	Portable DVD Player (e.g., with handles/carrying case)
14	14	Power and adaptor cords for portable electronic musical instruments and keyboards (when sold concurrently with the electronic musical instrument or keyboard)
15	15	Foot Massagers (wet)
16	16	Laptop Computer
17	17	Sandwich Maker
18	18	Telephone handset cord (handset-to-phone portion only where sold concurrently with telephone with programmable features)
19	19	Thermoelectric coolers
20	20	Travel Steamer
21	21	Vacuum cleaner, deep cleaner/extractor and/or carpet shampoo machine (both regular or retractable cord models)
22	22	Vaporizer
23	23	Video Camera power cords, adaptor cords (e.g., AC, auto), charger cords, connecting cables (when sold concurrently with video camera)
24	24	Video game accessories (owner's manual warning authorized where: i) accessory is sold with another product for which owners manual warnings are allowed; or ii) reference to the owners manual is necessary to program or install software for use). Warning that would otherwise be placed in owner's manual may alternatively be displayed as part of on-screen programming/installation instructions where use of such are necessary for initial product use.

25	Stand alone video mixer or switcher with non-integrated mouse
26	Portable warming tray
27	Cord of handheld waxers used for hair removal
28	Mobile telephones
29	Camera Cords and cables (only if sold concurrently with camera)
30	Telephones with programmable features

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12 COUNTY OF SAN FRANCISCO
13
14

15 MATEEL ENVIRONMENTAL JUSTICE
FOUNDATION,

16 Plaintiff,

17 vs.

18 SENCO PRODUCTS, INC., et al.,

19 Defendants.
20
21 _____/

CASE NO. 436587

[Proposed] ORDER
APPROVING SETTLEMENT
(Midwest Air Technologies)

17
Date: February 9, 2006
Time: 9:30 a.m.
Dept. No.: 301

22
23 Plaintiff's motion for approval of settlement and entry of Consent Judgment as to Defendant
24 Midwest Air Technologies was heard on regular noticed motion on February 9, 2006, at 9:30 a.m. in
25 Department No. 301. Having reviewed the pleadings and the moving papers, having reviewed the
26 terms of the proposed consent judgment and having considered the arguments of counsel, the Court
27 finds as follows:
28

ENDORSED
FILED
San Francisco County Superior Court

FEB 17 2006

GORDON PARK-LI, Clerk
BY: ERICKA LARNAUTI
Deputy Clerk

1 1. The warnings and reformulation the Consent Judgment requires comply with the
2 requirements of Proposition 65.

3 2. The payments in lieu of civil penalties specified in the Consent Judgment are reasonable
4 and conform to the criteria of Health and Safety Code § 25249.7(b)(2).

5 3. The attorneys fees awarded under the Consent Judgment and the underlying hourly
6 rates, time expended, and costs incurred are reasonable.

7
8 IT IS SO ORDERED.

9
10 Dated: FEB 17 2006

JAMES L. WARREN

Judge of the Superior Court